

Pursuant to 28, United States Code, Section 636(b), Judge Keesler was designated to consider these pending motions in the above captioned action and to submit to this Court a recommendation for the disposition of these motions. On November 22, 2011, Judge Keesler entered the Memorandum and Recommendation containing proposed conclusions of law in support of his recommendation concerning such motions. The parties were advised that any objections to the Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections ended on December 9, 2011, and no written objections to the Memorandum and Recommendation have been filed.

After careful review of Judge Keesler's well reasoned Memorandum and Recommendation, the court finds that the proposed conclusions of law are fully consistent with current case law. Accordingly, the court hereby **ACCEPTS** Judge Keesler's recommendation that both motions be denied and that the action be remanded for further review by an administrative law judge.

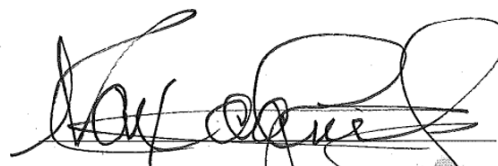
ORDER

IT IS, THEREFORE, ORDERED that the Commissioner's Motion for Summary Judgment (#17) is **DENIED** and that plaintiff's Motion for Summary Judgment (#15) is **DENIED**.

IT IS FURTHER ORDERED that the Memorandum and Recommendation is **AFFIRMED** and **ADOPTED** by this court in full, and that the final decision of the Commissioner is hereby **VACATED**, and this matter is **REMANDED** for reconsideration by an administrative law judge consistent with this Order and the Memorandum and Recommendation.

A judgment consistent with this Memorandum and Decision shall be entered by the Clerk of Court simultaneously herewith.

Signed: December 21, 2011



Max O. Cogburn Jr.
United States District Judge